

Shawn A Duffy
Name and Prisoner/Booking Number

Brown county Jail
Place of Confinement

22 Court ST Suite 1
Mailing Address

Aberdeen SD, 57401
City, State, Zip Code

FILED

MAR 09 2012

[Signature]
CLERK

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
DIVISION**

Shawn Alan Duffy,
(Full Name of Plaintiff)

Case No. 12-4044
(To be supplied by the Clerk)

Plaintiff,

vs.
Brown county Jail,
_____,
_____,
_____,
(Full Name of Each Defendant)

**CIVIL RIGHTS COMPLAINT
BY A PRISONER**

- ☒ Original Complaint
☐ First Amended Complaint
☐ Second Amended Complaint

Defendants.

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:
a. ☐ 28 U.S.C. § 1343(a)(3); 42 U.S.C. § 1983
b. ☐ 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).
c. ☐ Other: (Please specify.) _____

2. Name of Plaintiff: Shawn A Duffy
Present mailing address: 22 Court ST Suite 1 Aberdeen
(Failure to notify the Court of any change of address may result in dismissal of this action.)

Institution/city where violation occurred: Brown County Jail - Brown County
Aberdeen SD 57401

3. Name of first Defendant: _____ . The first Defendant is employed as:
 _____ at _____ .

(Position and Title)

(Institution)

This Defendant is sued in his/her: ☐ individual capacity ☐ official capacity (check one or both)

Explain how this Defendant was acting under color of law: _____

4. Name of second Defendant: _____ . The second Defendant is employed as:
 _____ at _____ .

(Position and Title)

(Institution)

This Defendant is sued in his/her: ☐ individual capacity ☐ official capacity (check one or both)

Explain how this Defendant was acting under color of law: _____

5. Name of third Defendant: _____ . The third Defendant is employed as:
 _____ at _____ .

(Position and Title)

(Institution)

This Defendant is sued in his/her: ☐ individual capacity ☐ official capacity (check one or both)

Explain how this Defendant was acting under color of law: _____

6. Name of fourth Defendant: _____ . The fourth Defendant is employed as:
 _____ at _____ .

(Position and Title)

(Institution)

This Defendant is sued in his/her: ☐ individual capacity ☐ official capacity (check one or both)

Explain how this Defendant was acting under color of law: _____

(If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.)

B. PREVIOUS LAWSUITS

I personally didn't, Not sure if

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☐ No *? my attorney did*

2. If your answer is "yes," how many lawsuits have you filed? *?* Describe the previous lawsuits in the spaces provided below.

3. First prior lawsuit:

a. Parties to previous lawsuit:

Plaintiff: _____

Defendants: _____

my attorney Chris Doherty or Marshall Laverio may have?

C. CAUSE OF ACTION**COUNT I**

1. The following constitutional or other federal right has been violated by the Defendant(s): Staff at Brown County Jail - / Cruel Punishment, Excessive Force, Gr

2. Count I involves: (Check only one; if your claim involves more than one issue, each issued should be stated in a different count)
- | | | |
|--|--|---|
| <input type="checkbox"/> Medical care | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Mail |
| <input checked="" type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Retaliation | <input type="checkbox"/> Exercise of religion |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ |

3. **Supporting Facts:** (State as briefly as possible the FACTS supporting Count I. Describe exactly what each Defendant did or did not do to violate your rights. State the facts clearly in your own words without citing legal authority or arguments).

From The end of November Until December 21, 2011
I was in illegal 24 hour a Day lockdown. Approximately
3 weeks. In a 3 man cell unit By myself. Only allowed
out out for 5-10 minute showers. Also besides un/lawful
Detainment. I was also denied my U.S. Mail ?
Wrote in Writing By Craig Nelson on my Disciplinary
Report. Hos of Agministrative Segergation. Every Inmate
By Law has a right to one hour out of their cell a day.
Also was ignored. Took me 2-3 hours one day Just
To get a roll of Toilet paper. Another incident with the same
Jailor who denied me Toilet paper. Name (Brian Bahr) Couple weeks
ago he locked me in cell? I asked him if he would give a written
Signed note to Deputy Note Smith, In regards To a money order from my mom. He ignored
me and I Dropped my written note. Bahr Turned around and Made me
lock in my cell. He Said I was littering. Jailor Bahr knows I suffer From mental
illness, That Didnt stop him From coming in my cell one night, I was having a Narcoleptic Attack
I could not move - He and Deputy Stan Shultz, Came in my cell, I Did not resist I couldnt move

4. **Injury:** (State how you have been injured by the actions or inactions of the Defendant(s)).

Mr Bahr Threw me Face Down Jammed his Knee in my back. Remind you I Never
resisted. He Brought me Down stairs put me in a populated cell block, in a Drunk
cell. They refused me Sheets, Blankets, Would Not even let me Disenfect Dirty mattress.
Get Staff infection.

5. **Administrative Remedies:**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- b. Did you submit a request for administrative relief on Count I? ☒ Yes ☐ No
- c. Did you appeal your request for relief on Count I to the highest level? ☒ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief to the highest level, briefly explain why you did not. I Filed a Grievance I, a Grievance II

I even Filed a emergency Grievance - Never got proper
Hearing on any Grievance.

COUNT II

1. The following constitutional or other federal right has been violated by the Defendant(s): _____

Signed Form for my PHI, Already Authorized By myself. Nurse whip had me sign release; They will not give me copies. Denying me medical attention.

2. Count II involves: (Check only one; if your claim involves more than one issue, each issued should be stated in a different count)
- | | | |
|--|--|---|
| <input type="checkbox"/> Medical care | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Mail |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Retaliation | <input type="checkbox"/> Exercise of religion |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Property |
| <input type="checkbox"/> Other: _____ | | |

3. **Supporting Facts:** (State as briefly as possible the FACTS supporting Count II. Describe exactly what each Defendant did or did not do to violate your rights. State the facts clearly in your own words without citing legal authority or arguments).

I Have had Problems with my ears since I was a child. I Have a loud Ringing in my left ear, Its worse The I ever experienced Plus the Pain is Constant. I saw a Physicians assistant at Sanford Health Care a few months ago. She was rude, she had nurse squirt water in my ear and offered me Antibiotics, I Do Not Have a Cold, Im Not Sick - No Fever No ear Drainage. She never asked if it hurt No other questions Nothing. My Ear Since Then is gotten worse. Im scared Im going to lose my hearing. I have written numerous med slips. That first med slip wasn't Even responded to by a Licensed medical Personnel. She mentions me not getting Percocet? I Never even mentioned anything to do with Percocet? Now This New Nurse Tells me They will not bring me. To get my ear fixed. Cause "Were not paying for it", Very rude! Ear pain and Ringing has made my anxiety rise and Im under alot of stress.

4. **Injury:** (State how you have been injured by the actions or inactions of the Defendant(s)).

Losing Hearing in my Left Ear which is got louder and hurts, New Nurse Said They will not Help me. Also refuse To give me copies of my own Sanford med records, When I already Signed for Them

5. **Administrative Remedies:**

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- Did you submit a request for administrative relief on Count II? ☒ Yes ☐ No
- Did you appeal your request for relief on Count II to the highest level? ☒ Yes ☐ No
- If you did not submit or appeal a request for administrative relief to the highest level, briefly explain why you did not. *They Do not Care, See med slips*

I Have most all med slips and responses, Chris Dahler and mr Marshall Lovenien have copies on all incidents.

COUNT III

1. The following constitutional or other federal right has been violated by the Defendant(s): he

Denial of Legal mail, made me have
Panick attack, Ended up in Hospital

2. Count III involves: (Check only one; if your claim involves more than one issue, each issued should be stated in a different count)
- | | | |
|--|--|---|
| <input type="checkbox"/> Medical care | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Mail |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Retaliation | <input type="checkbox"/> Exercise of religion |
| <input type="checkbox"/> Excessive force by an officer | <input checked="" type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ |

3. **Supporting Facts:** (State as briefly as possible the FACTS supporting Count III. Describe exactly what each Defendant did or did not do to violate your rights. State the facts clearly in your own words without citing legal authority or arguments).

I have Bi-Polar - anxiety and Panick attacks, I wrote a Legal
Letter To The Honorable Judge Kornmann, I sealed mail in
front of Jailor Tammy. Later on that even Jailor Brandon
told me to wipe off my camera through intercom. So I did.
He Brandon and Jon Walters came upstairs Took me Down
stairs put me in hand cuffs and made me lay Face Down
in holding cell. When Brandon opened Holding cell Door
I asked for my Legal Mail Back because he made a comment
about there being Tape on it? At the time There was very
Few Staff members I Trusted with my Legal mail, Because
its Been tampered with Before. Got Proof. So anyway he refused
To give me my own Legal Letter to a Federal Judge. I Told him he did
not have right To open it or hold it cause I didn't Did not Trust Brandon.
I Told him I would not walk back to my cell without my Mail To Judge.
He threw me Back in holding cell. I had a anxiety attack so Bad, I could not
Breathe, my chest was tight.

4. **Injury:** (State how you have been injured by the actions or inactions of the Defendant(s)).

Severe Panick attack, Ambulance Had to be called
and I had To be rushed To Emergency Room at Avera St Lukes
Hospital all Because Jailor Brandon would Not give me my own Legal mail
To me.

5. **Administrative Remedies:**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- b. Did you submit a request for administrative relief on Count III? ☒ Yes ☐ No
- c. Did you appeal your request for relief on Count III to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief to the highest level, briefly explain why you did not. They keep this incident quiet Because They know

They Did Wrong. Ignored my Grievances as always.

(If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.)

D. REQUEST FOR RELIEF

State briefly what you want the Court to do for you.

I Have Suffered and have come close to losing my mind. First
off I know Im in jail Unlawfully and Dont know why Im still
here. My mail my mother sent me has been Thrown away without asking
me what I wanted To do with it. My Legal mail I have liked and
sealed in front of Jailor, Came back To me a week later
opened and it had my own personal Stamp on it. Jailor Rust I liked
and sealed it in front of. Also Jail opened a letter addressed to my
court appointed Attorneys ~~name~~ after sealed in front of Jailor. They
opened it and kept it. 3 weeks 24 Hour a day lock down.

"Denied medical care!" I just got released From Psychiatric
ward after I was committed for almost a week. ~~Rele~~ Released
3-16-2011 - Sheriff Brought and Detained me at Jail on the morning
of 3-17-11. Not 24 Hours after being released. I should have brought
To a appropriate Facility instead of Jail.

Please read Copies of Time and Dates of everything They
put me Through and got away with. MR Marshall Lovernen
Has copies. I wrote down Times and Dates. See my Habeas writ

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 3-8-12
 DATE

[Signature]
 SIGNATURE OF PLAINTIFF

(Name and title or paralegal, legal assistant, or
 other person who helped prepare this complaint)

(Signature of attorney, if any)

Chris Doherty is my Court appointed
attorney - Although Im Doing This myself

Call ~~Bent~~ - Bantz, Gosh & Gremer Law Office - Marshall C Lovernen
 (Attorney's address & telephone number)

They kept me locked in 24 hour

lock down 200° of the year

I been here, been stressed
 and not feeling well. Could

have been getting

mental Health care

or doing something productive

Phone # (605) 225-2232

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If needed, you may attach additional pages. The form, however, must be completely filled in to the extent applicable.

Southern Division:

U.S. District Court Clerk
U.S. Courthouse
400 S. Phillips Avenue #128
Sioux Falls, SD 57104

Central & Northern Divisions:

U.S. District Court Clerk
U.S. Post Office & Courthouse
225 South Pierre Street #405
Pierre, SD 57501

Western Division:

U.S. District Court Clerk
U.S. Courthouse
515 Ninth Street #302
Rapid City, SD 57709

- F. Service: Summons and USM 285 forms will be provided to you if, after screening your complaint as is required under 28 U.S.C. §1915, the court orders your case served upon one or more defendants.
- G. Certificate of Service on Defendants: You must furnish the opposing party or their attorney with a copy of any document you submit to the court (except the initial complaint and application to proceed in forma pauperis). Pursuant to Rules 5(a) and (d) of the Federal Rules of Civil Procedure, each original document (except the initial complaint and application to proceed in forma pauperis) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants or their attorney and the address(es) to which it was mailed. Any document received by the court which does not include a certificate may be stricken. A certificate of service should be in the following form:

Certificate of Service

I hereby certify that a copy of the foregoing document was mailed this 8 day of March (month), (year), to: 2012

Name: Chris Dohrer Phone# 605/226-1673

Address: _____ or Marshall Laverien
Attorney for Defendant(s). 605/225-2232

[Signature]
(Signature of Plaintiff)

- H. Inquiries and Copying Requests. You will be notified as soon as the court issues an order in your case. Because of the large volume of cases filed by prisoners in this court and limited court resources, the court and clerk's office will not answer inquiries concerning the status of your case or provide copies of documents, except at a charge of fifty cents (\$0.50) per page. You must therefore keep copies of all documents submitted to the court for your own records.
- I. Change of Address. You must immediately notify the clerk and the opposing parties or their attorneys in writing of any change in your mailing address. Failure to notify the court of any change in your mailing address may result in the dismissal of your case.
- J. Amended Complaint. If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. Rule 15(a) of the Federal Rules of Civil Procedure allows you to file one amended complaint prior to any defendant filing an answer. After any defendant has filed an answer, you must file a motion for leave to amend and lodge a proposed amended complaint. Further, any allegations or defendants not included in the amended complaint are considered dismissed.
- K. Letters and Motions. It is generally inappropriate to write a letter to any of the district judges, magistrate judges, or the staff of any of the judicial officers. The appropriate way to communicate with these persons is by filing a written pleading or motion.